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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,112	07/30/2003	John W. Drackett	03-5807	7748

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EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,112

Applicant(s)

DRACKETT, JOHN W.

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/30/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3641

1. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 18-20, how are the terms “wheels”; “flexible shielding material”; and “a gun” intended to relate to the previously claimed wheels; flexible shielding material; and gun (see claim 1, lines 4, 6-7, and 13)? In claim 9, lines 2-3, use of the phrase “said gun mount is mounted said frame front” is grammatically incorrect. In claim 9, lines 3-4, use of the phrase “means for pushing thereon” makes the claim indefinite as to where the means for pushing is mounted. In claim 12, line 3, what structural element is intended to correspond to the claimed “a pair of clamps”? In claim 13, line 4, the phrase “a gun” should be claimed as (said gun) if the previously claimed gun is intended.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claim language directed to “said moveable gun mount has a pair of clamps thereon for removably clamping said gun thereto” (see claim 12) is unsupported by the written specification as originally filed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Council in view of Baldine (986), Aghnides, or Baldine (393).

Council discloses a mobile personnel gunfire shield comprising:

- a) a steel frame; 61, 62, 65
- b) a plurality of wheels; 31, 32
- c) a plurality of sheets of flexible ballistic material; and 66 or 166
- d) a transparent bullet resistant window. 66 or 76

Council applies as previously recited. However, undisclosed is a moveable gun mount mounted to the front frame with associated gun that extends through the front sheet of ballistic material. Baldine (986) #152 ; Aghnides #22u; and Baldine (393) adjacent #20 each teach a moveable gun mount mounted to the front frame with associated gun that extends through the front sheet of ballistic material. Applicant is selecting a gun mount arrangement, commonly known in this art (see Baldine (986); Aghnides; or Baldine (393)) and putting it to use as it is already commonly known to be used in this art. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Baldine (986); Aghnides; or Baldine (393) to the Council mobile shield and have a mobile shield with an associated gun mount.

5. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Council in view of either Baldine (986); Aghnides; or Baldine (393) as applied to claim 1 above, and further in view of Madden Jr..

Council applies as previously recited. However, undisclosed is a flexible ballistic panel material that is Kevlar. Madden Jr. teach a flexible ballistic panel material that is Kevlar, col. 6, lines 1-6. Applicant is substituting one flexible ballistic panel material for another in an analogous art setting as explicitly encouraged by the primary reference Council. Council

Art Unit: 3641

explicitly teaches at least 3 different alternative materials that could be used for his flexible ballistic material 66, 166 (see col. 3, lines 5-7 and col. 4, lines 5-7). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Madden Jr. to the mobile shield of Council in view of either Baldine (986); Aghnides; or Baldine (393) and have a mobile shield with a different type of flexible ballistic material.

6. Claims 2-9 and 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kropf, Zevuluni et al., Chaires, Luigi Calzav Ara, Piszat, and N. Y. Tribune disclose other state of the art mobile shields.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.

Application/Control Number: 10/631,112

Page 5

Art Unit: 3641



STEPHEN M. JOHNSON
Primary Examiner

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ